



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/172692

PRELIMINARY RECITALS

Pursuant to a petition filed March 08, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Walworth County Department of Human Services in regard to Medical Assistance, a hearing was held on April 12, 2016, at Elkhorn, Wisconsin.

There is no longer any issue for determination by the Division of Hearings and Appeals.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED], Economic Support Worker / Fraud Investigator
Walworth County Department of Human Services
W4051 County Rd NN
Elkhorn, WI 53121-1006

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

DISCUSSION

The Petitioner filed an appeal concerning an overpayment determination by the Walworth County Department of Human Services (the agency). After [REDACTED] presented the agency's case, the Petitioner indicated that he understood the basis of the overpayment determination and that he did not dispute the agency's calculation of the overpayment. The Petitioner indicated that he was only hoping to be able to negotiate a reduction in the overpayment.

Regrettably, a fair hearing is not the forum in which to negotiate payment of the overpayment, because Administrative Law Judges do not have the equitable authority to engage in such negotiations, but must instead apply the law as it is written.¹ Petitioner will have to deal directly with the Public Assistance Collections Unit:

Mailing Address: P.O. Box 8938
Madison, WI 53708-8938

Phone: 1-800-943-9499
Fax: (608) 266-8302

E-mail: dwspace@dwd.state.wi.us

Via website: <http://dcf.wisconsin.gov/pacu/contact.htm>

Because the Petitioner no longer disputes the overpayment, there is no issue for determination by the Division of Hearings and Appeals. Consequently, this appeal will be dismissed. If I have misunderstood the situation, the Petitioner is directed to the rehearing instructions below.

CONCLUSIONS OF LAW

There is no longer any issue for determination by the Division of Hearings and Appeals.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

¹ See, *Final Decision*, OAH Case No. A-40/44630, [by Timothy F. Cullen, Secretary, DHSS] (Office of Administrative Hearings, n/k/a, Division of Hearings & Appeals- Work & Family Services Unit December 30, 1987)(DHSS); "An administrative agency has only those powers which are expressly conferred or can be fairly implied from the statutes under which it operates. [citation omitted]" *Oneida County v. Converse*, 180 Wis.2d 120, 125, 508 N.W.2d 416 (1993). "No proposition of law is better established than that administrative agencies have only such powers as are expressly granted to them or necessarily implied and any power sought to be exercised must be found within the four corners of the statute under which the agency proceeds." *American Brass Co. v. State Board of Health*, 245 Wis. 440, 448 (1944); see also, *Neis v. Education Board of Randolph School*, 128 Wis.2d 309, 314, 381 N.W.2d 614 (Ct. App. 1985).

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 19th day of April, 2016.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 19, 2016.

Walworth County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability